BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

SOKHOM VAN ORDEN)
Claimant VS.	}
IBP, INC.) Docket No. 190,920
Respondent Self-Insured	

ORDER

Claimant appeals from a preliminary Order, dated June 28, 1995, by Administrative Law Judge Floyd V. Palmer. Appeals Board Member Gary M. Korte has recused himself from this proceeding and Appeals Board Member Pro Tem Jeff K. Cooper has been appointed to serve in his place.

ISSUES

Claimant raised the following issues before the Appeals Board:

- Whether the claimant suffered an accidental injury to her back, hip. (1) ankle and knee; and
- (2) Whether the said injuries arose in the course of her employment with respondent, IBP, Inc.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board finds that the claimant failed to meet her burden of proof in establishing that she suffered an accidental injury arising out of the course of her employment with respondent. Claimant alleged in her Application for Preliminary Hearing that she injured her back while performing her regular work activities from June 1, 1994 through June 20, 1994. Claimant testified at the preliminary hearing held May 26, 1995, that her back began hurting her approximately two years ago. However, claimant did not file a claim for compensation until July of 1994.

Claimant was seen by Dr. Frederick Wolfe, Dr. Douglas Gardner, and Dr. Rob Hutchison. She advised Dr. Wolfe that her back started hurting her when she first started having rheumatoid arthritis symptoms in 1992. Dr. Hutchison, Dr. Gardner, and Dr. Wolfe all diagnosed the claimant as having rheumatoid arthritis and all agree that it was not caused by her work for respondent. The Appeals Board finds that the preponderance of the credible evidence establishes that the claimant is suffering from rheumatoid arthritis that does not arise out of and in the course of claimant's employment. The Appeals Board finds that the claimant failed to meet her burden of proof in

that does not arise out of and in the course of claimant's employment.

Claimant further argues that the work activities have aggravated the rheumatoid arthritis. However, the credible weight of the evidence suggests that any activity, not just work activity, aggravates the claimant's condition and there is, therefore, no relationship between the work activities and increased complaints of pain. In Boeckmann v. Goodyear Tire & Rubber Co., 210 Kan. 733, 504 P.2d 625 (1972) the Court held there must be causal relationship between the work activities and the aggravation for the aggravation to be compensable. Further, the evidence does not establish that the work activities have caused any worsening of her physical condition.

Based on the medical evidence admitted for purposes of preliminary hearing, the Appeals Board finds that the claimant has failed to show a causal relationship between her work activities and any aggravation of her rheumatoid arthritis condition.

WHEREFORE, it is the finding, decision and order of the Appeals Board that the preliminary Order entered by Administrative Law Judge Floyd V. Palmer, dated June 28, 1995, should be, and hereby is, affirmed.

IT IS SO ORDERED.	
Dated this day of February 1996.	
	BOARD MEMBER PRO TEM
	BOARD MEMBER
	BOARD MEMBER

c: Diane F. Barger, Emporia, Kansas John David Jurcyk, Lenexa, Kansas Jeff K. Cooper, Board Member Pro Tem, Topeka, Kansas Floyd V. Palmer, Administrative Law Judge Philip S. Harness, Director